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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/784,406	02/23/2004	Franciscus J.T. Krabbenborg	62449A	1848

109 7590 10/27/2006

THE DOW CHEMICAL COMPANY
INTELLECTUAL PROPERTY SECTION,
P. O. BOX 1967
MIDLAND, MI 48641-1967

EXAMINER

ZEMEL, IRINA SOPHIA

ART UNIT	PAPER NUMBER
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1711

DATE MAILED: 10/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/784,406

Applicant(s)

KRABBENBORG ET AL.

Examiner

Irina S. Zemel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 October 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 2, 5-8, 10, 13-20, 22-24, 27 and 34-44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 5-8, 10, 13-20, 22-24, 27 and 34-44 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 5-8, 10, 13-20, 22-24, 27 and 34-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over GB 1299480 to Imperial Chemical Industries, Limited., (hereinafter "ICI") in combination with US Patent 3,700,758 to Johnson et al., (hereinafter "Johnson").

The disclosure of the ICI and Johnson references is discussed in detail in the previous office action. As far as the newly added limitations to the compositions containing one or more of an ethylene- acrylic acid copolymer, an ethylene-methacrylic acid copolymer, and an ethylene- acrylic acid-methacrylic acid terpolymer AND at least one copolymer of ethylene with an ethylenically unsaturated monomer, this limitation is met any a mixture of any two ethylene-ethylenically unsaturated monomer copolymers, including mixtures of an ethylene- acrylic acid copolymer, an ethylene-methacrylic acid copolymer, and an ethylene- acrylic acid-methacrylic acid terpolymer. Applicants should note that throughout the specification "copolymers of ethylene and ethylenically unsaturated monomers" are defined as comprising an ethylene- acrylic acid copolymer, an ethylene-methacrylic acid copolymer, or an ethylene- acrylic acid-methacrylic acid terpolymer. Thus, there is no difference between either one of the three expressly defined copolymers and an additional ethylene-ethylenically unsaturated monomer copolymer. The reference does not expressly discloses mixtures of various

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copolymers, however, the reference expressly discloses various copolymers as equally suitable for the invention, including EVA, and E-(meth)acrylic acid copolymers. The reference also refers to the suitable copolymers in plural, thus implying that mixtures of the copolymers may be used. Even if, there is no expressed suggestion to use mixtures of the copolymers, such as EVA with E-(meth)acrylic acid, (or terpolymers), in view of the expressed disclosure of equal suitability of various copolymers for the invention, it would have been obvious to use blends of two or more copolymers with reasonable expectation of adequate results. No showing of unexpected results that can be attributed to the presence of at least two different copolymers (one of which is either ethylene-acrylic acid copolymer, an ethylene-methacrylic acid copolymer, or an ethylene-acrylic acid-methacrylic acid terpolymer) are so far presented anywhere on the record.

Insofar as the new limitations of newly added claims reciting melt flow index, the expressed disclosure of reference of MFI of 1000 meets the recited limitation.]Insofar as limitations directed to specific copolymers, such as EVA or ethylene-acrylic acid copolymer, etc., as discussed above and in the previous office action, each of those copolymers is within the purview of the reference and use of each one alone or in combination with other copolymers would have been obvious with reasonable expectation of adequate results as per discussion above.

The limitation to the powder coating, in the absence of specifically defined powder is met by the presence of additional powdered components, such as fillers or

other powders disclosed in column 2, as during the blending process the copolymer particles will be inherently at least to some degree coated by other powders.

Thus, the claims are still considered to have been obvious over the combined teachings of ICI reference and the Johnson reference.

Response to Arguments

Applicant's arguments filed 8-10 and 10-18-2006 have been fully considered but they are not persuasive. The applicants first argue that the references (ICI and Johnson) do not disclose the composition as claim in the pending claims. Specifically the applicants argue that the reference does not disclose compositions that contain at least one of three claimed copolymers and an additional copolymer of ethylene with an ethylenically unsaturated monomer. While none of the specific illustrative examples disclose combination of two copolymers, as discussed above, in the absence of showing of unexpected results that can be attributed to the presence of two copolymers, use of two equally suitable and expressly disclosed copolymers is considered obvious as per discussion above.

The applicants further state that the reference does not disclose copolymers that have the claimed melt flow index. This is not so as the reference expressly discloses MFI as high as 1000 which meets the claimed limitation of above 100. Also, contrary to applicants argument, the reference expressly discloses, for example, dicumyl peroxide as a suitable peroxide, which has a one hour half decomposition temperature of about

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146 C or pretty much right in the middle of the claimed range. Thus, the reference either expressly teach or suggests the argued limitations.

It is further noted that the illustrative examples expressly disclose the amounts of the copolymer in the compositions such as 25 and 40, which correspond to the claimed amounts of the copolymers. The reference does not disclose specific illustrative examples that have all the claimed components in all of the claimed proportions, however, the examiner never alleged that the ICI reference anticipates the claimed invention, rather that the reference (in combination with the secondary reference) makes use of all of the claimed components in claimed amounts obvious with reasonable expectation of adequate results and in the absence of showing of unexpected results. No unexpected results are presented anywhere on the record.

The invention as claimed, thus, is still considered to have been obvious from the combined teachings of the cited references.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Irina S. Zemel whose telephone number is (571)272-0577. The examiner can normally be reached on Monday-Friday 9-5.

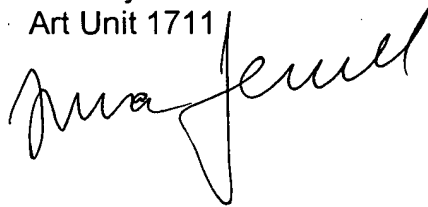
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Seidleck can be reached on (571)272-1078. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ISZ

Irina S. Zemel
Primary Examiner
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A handwritten signature in black ink, appearing to read 'Irina Zemel', is written over the printed name and title.